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agency under Public Law 103-354 is directly involved or for an action which is directly related to a proposed FmHA or its successor agency under Public Law 103-354 action. An example of the latter would be a request from EPA to participate in an EIS covering its sewage treatment plans for a community, as well as the community's water system plans pending before FmHA or its successor agency under Public Law 103-354. A memorandum of understanding or other written correspondence will be developed with the lead agency in order to define FmHA or its successor agency under Public Law 103-354's role as the cooperating agency. The State Director will coordinate FmHA or its successor agency under Public Law 103-354's participation as a cooperating Agency for an action at the State Office level. The Administrator will have the same responsibility at the National Office level.

(b) When requested to be a cooperating Agency on a basis other than that discussed above, the State Director will consider the expertise which FmHA or its successor agency under Public Law 103-354 could add to the particular EIS process in question and existing workload commitments. If a decision is made on either of these two bases not to participate as a cooperating Agency, a copy of the letter signed by the State Director or Administrator and so informing the lead Agency will be sent to CEQ.

(c) As a cooperating Agency, FmHA or its successor agency under Public Law 103-354 will participate in the development and implementation of the scoping process. If requested by the lead Agency, provide the lead Agency with staff support and descriptive materials with respect to the analyses of the FmHA or its successor agency under Public Law 103-354 portion of the action(s) to be covered, review and comment on all preliminary draft materials prior to their circulation for public review and comment, and attend and participate in public meetings called by the lead Agency concerning the EIS.

(d) The State Director will request the lead Agency to fully identify the Agency's involvement in all public documents and notifications.

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(e) FmHA or its successor agency under Public Law 103-354 will use the EIS as its own as long as FmHA or its successor agency under Public Law 103-354's comments and concerns are adequately addressed by the lead Agency and the final EIS is considered to meet the requirements of this subpart. It will be the responsibility of the preparer of the FmHA or its successor agency under Public Law 103-354 environmental review document to formally advise the approving official on these two points. The failure of the lead Agency's EIS to meet either of these stipulations will require FmHA or its successor agency under Public Law 103-354 to follow the steps outlined in § 1940.324 of this subpart prior to the approving official's decision on the FmHA or its successor agency under Public Law 103-354 action.

§ 1940.326 FmHA or its successor agency under Public Law 103-354 as a lead Agency.

(a) When other Federal agencies are involved in an FmHA or its successor agency under Public Law 103-354 action or related actions that require the preparation of an EIS, the preparer will consult with these agencies to determine a lead Agency for preparing the EIS. The criteria for making this determination will be those contained in § 1505.5 of the CEQ regulations. If there is a failure to reach a determination within a reasonably short time after consultation is initiated, the National Office will be contacted. The assistance of CEQ will then be requested by the Administrator in order to conclude the determination of a lead Agency.

(b) When acting as lead Agency, the FmHA or its successor agency under Public Law 103-354 preparer will request other Federal and State agencies to serve as cooperating agencies on the basis of the guidance provided in § 1940.320(b) of this subpart. A memorandum of understanding or other written correspondence should be developed with a cooperating agency in order to define that agency's role in the preparation of the EIS.

§ 1940.327 Tiering.

To the extent possible, FmHA or its successor agency under Public Law 103-